

Court Improvement Project Committee

Minutes

September 9th, 2016

1pm to 3pm

GoToMeeting

Bismarck, ND

Present

Judge Laurie Fontaine, Chair

Dale Rivard

Judge John Grinsteiner

Donna Wunderlich

Shari Doe

Karen Kringlie

Susan Gerenz for Robin Huseby

Judge Todd Cresap

Absent

Judge Jay Schmitz

Referee Scott Griffith

Scott Davis

Guests

Shawn Peterson, Unit 1 Juvenile Court Director

Avery Ericson, ICWA Audit Researcher

Kerry Klein, Children and Family Services

Lee Ann Barnhardt, Education Director

Staff

Sally Holewa

Heather Traynor (scribe)

Welcome and Introductions

Judge Laurie Fontaine called the meeting to order. Judge Fontaine introduced herself and welcomed the committee.

Approval of May 6th, 2016 meeting minutes

Judge Fontaine asked if there were any comments or changes to the May 6th, 2016 minutes.

After no comment, **a motion was made by Dale Rivard to approve the May 9th, 2016 minutes. The motion was seconded by Shari Doe, the motion carried.**

Update on Annual CIP Conference, Washington DC, August 29-30

Heather Traynor reported that she, Shari Doe, Judge Fontaine, and Shawn Peterson attended the annual CIP grantee conference in Washington DC. The national meeting focused on collecting data and using the data to implement change in current dependency court practice, specifically on quicker time to permanency in deprivation and termination of parental rights cases. During the conference the capacity building center for courts encouraged using available data from child welfare, such as AFGAR data. There was discussion and instruction for CIP to collaborate with child welfare agencies to assist in identifying needs and area of improvement in dependency cases. The next CIP grant program instruction will include a requirement for the CIP committee to invite members of child welfare to future meetings. Ms. Traynor reported that the ND CIP team was instructed to create a ninety day plan to support joint program planning and improvement with child welfare.

It was noted by Shari Doe that during the conference there was a lot of emphasis on CIP and CFS coming together and working more as a collaborative group. Ms. Doe noted she appreciated the data visualization portion of the training and that all future collaborative efforts will benefit the children in child welfare. Judge Fontaine commented that there was a lot of stress and emphasis for CIP to work with CFS on creation of projects and plans. There was discussion on a training idea that stemmed from the team meeting at the conference. The team had discussed the possibility of future travel to separate stakeholder groups to converse and educate groups on child welfare updates and CIP program projects.

Ms. Doe reported that ND will be having its third Children and Family Service Review (CFSR) on September 12th and based on their June annual assessment, CFS will also be involved in a program improvement plan at the end of the review. There will be nineteen stakeholder group conference calls held during the week of review.

CIP Program Instruction Update

Heather Traynor informed the committee that the next Five year CIP grant and funding is tied to the Family First Bill. The Bill is to be voted on by September 30th has been stalled in Congress. The bill focuses on providing front end services by using title IV-E money to prevent early entry into foster care. It is a bipartisan bill with uncapped dollars. If passed it would increase child dependency case deadlines in court. Shari Doe noted that if the bill passes it would be biggest change to child welfare that has happened in 50 years and would put foster care money at the frontend to use for addiction treatment, therapy and in home services. It will also have a large impact on congregate care increasing requirements for specific treatment plans or diagnoses before a child could be placed. If passed, the implementation date would be in 2019.

The CIP grant application and program instruction will include a requirement for CIP to implement a data driven project to focus on permanency in dependency cases using data from child welfare. There is also an anticipated requirement for CIP to create a data subcommittee to include CIP and CFS members. The new Program Instruction will no longer require specific timeliness measures. States are encouraged to focus on areas of need identified by CIP, the CIP

subcommittees and child welfare.

Review and approval of 2nd round ICWA Audit Report

Avery Erikson reported on the ND Court ICWA Compliance Audit for FY 2011/2011. Judge Fontaine asked why the use of the QEW in ICWA cases is low in compliance and if any of the cases included voluntary termination of parental rights cases. Dale Rivard asked if a QEW was necessary in a voluntary termination if the parents are voluntarily terminating or voluntarily placing children in foster care. There was discussion among the group. Sally Holewa stated the qualified expert witness testifies as to whether the Indian child's continued custody with the parents will likely result in the emotional and or physical damage of the child. Avery Erikson and Heather Traynor stated they will research the Rule further and bring the topic of QEW at a voluntary TPR to the next committee meeting. Judge Fontaine brought up the issue regarding the lack of QEWs in the state. Kerry Klein noted that during a Tribal Round Table meeting the Indian Affairs Commission discussed working with the separate tribes to have QEWs approved by tribal council.

The auditors for the third round ICWA audit will be assessing the first 80% of the counties that have the most ICWA cases. In addition to looking at FY 2012/2013 cases, with approval of the committee, the third review will also include a "snapshot" of ICWA compliance in ND, looking at 20% of FY 2016 ICWA cases in the counties with the most ICWA cases. This will allow for the court to compare and review whether or not the training and action plan implemented since the first audit has improved compliance.

Judge Fontaine asked if anyone would like to make a motion to approve the FY 2011/2012 ICWA compliance audit and supplement to audit. Dale Rivard made a motion to approve the audit. The motion was seconded by Donna Wunderlich, the motion carried. The audit will be forwarded to the Administrative Council.

GAL Sub-Committee – Shawn Peterson, Chair.

Shawn Peterson reported that the GAL subcommittee last met on July 20th. The annual workshop was held in July with a heavy focus on ICWA. During the workshop Lauren Bosch revealed to the guardians that they will be using a universal format for their reports. In June the Judicial officers were invited to meet with members of the subcommittee to discuss what they would like to see in the reports along with what they find most helpful when reviewing reports. As a result of the feedback from judicial officers, Heather Traynor drafted a universal report format that will be distributed to the GALs to implement on September first.

The GAL training manual workgroup has reviewed the current manual in its entirety and has made suggestions for changes. The manual is in the process of being updated to an electronic version to include links to updated material. Mr. Peterson reported the subcommittee also put together a workgroup to review and make suggested changes Rule 17. The drafted changes were made through suggestions of the GAL program administrators. A draft with updates was handed

out to the CIP committee members. The committee decided to look at the drafted changes for discussion and vote at the November meeting.

Mr. Peterson reported that orders appointing GALS vary from district to district along with when the report is to be submitted to the court. A motion was made and approved by the GAL subcommittee to have the CIP decide on whether a uniform order appointing GALs should be considered. Judge Fontaine asked if there were any other groups working on GAL matters and juvenile issues. It was noted that Juvenile Policy Board focuses on the delinquency side and the CIP committee is the only group that works on deprivation matters. It was decided that a sample order appointing a GAL will be created and submitted to the CIP and Admin Council for review and discussion in November.

ICWA Sub-Committee – Scott Davis- Chair.

Heather Traynor reported for Scott Davis. Ms. Traynor provided the committee with an updated handout on the new regulations. It was noted that new definitions have been included in the Rule along with eleven different examples of active efforts. The new Rule states the courts are to document in court record the active efforts made by the child welfare agency. Another change to ICWA practice includes that notice provided by the party will now allow for certified mail in lieu of registered mail. Copies of the notices must be submitted to the acting BIA Regional Director in South Dakota, increasing the BIAs involvement as a repository for notices. Ms. Traynor also pointed out that the state social worker assigned to the child cannot serve as a QEW. Ms. Traynor has contacted NICWA to inquire about providing a training to the judicial officers on the upcoming December 12th Rule implementation and she is also working on updating the hard card to reflect the changes.

Education Sub-Committee – Judge David Reich, Chair.

The ICWA Rule updates and summaries have been provided to judicial officers, states attorneys, and the indigent defense counsel. They have also been provided with BIA PowerPoints and modules along with a link to BIA online training. Lee Ann Barnhardt reported that the Bench Book committee is aware of the ICWA changes and will work on putting the new information in the bench books after the upcoming legislative session.

The children's justice symposium was held in Jul where attendance reached close to five hundred participants. The ICWA conference planning committee will begin next month. Heather Traynor and Kim Dockter sit on the planning committee. Lee Ann also noted that they will be starting a webinar series soon for judicial officers and will incorporate child welfare issues into the webinar as well.

Data Collection Sub-Committee – Karen Kringlie, Chair.

Karen Kringlie reported the Data Subcommittee met on August 25th. The subcommittee discussed the direction that CIP is to focus on nationally, which is to involve child welfare in a data project focusing on permanency. During the meeting the subcommittee reviewed the percentage of cases where permanency occurs within 365 days of removal or shelter care hearings. They also reviewed subsequent permanency hearings that were held within 12 months of the last hearing. The members of the subcommittee will meet again in December after the federal CFSR to focus on a data project based on results and areas of improvement from the audit.

Next 2015 meeting dates

November 18th, 2016 from 10 a.m.-12 p.m. – Bismarck & Grand Forks IVN